

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works	(2) MEETING DATE 8/16/2016	(3) CONTACT/PHONE Glenn Marshall, Development Services Engineer (805) 781-1596	
(4) SUBJECT Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Frank Caron. District 4.			
(5) RECOMMENDED ACTION It is recommended that the Board deny the appeal to adjust or to waive the Road Improvement Fee.			
(6) FUNDING SOURCE(S) N/A	(7) CURRENT YEAR FINANCIAL IMPACT N/A	(8) ANNUAL FINANCIAL IMPACT N/A	(9) BUDGETED? N/A
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>15 min</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances {X} N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY {X} N/A Date: <u> </u>	
(17) ADMINISTRATIVE OFFICE REVIEW David E. Grim			
(18) SUPERVISOR DISTRICT(S) District 4			

Reference: 16AUG16-H-1

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Glenn Marshall, Development Services Engineer

VIA: Dave Flynn, Deputy Director of Public Works

DATE: 8/16/2016

SUBJECT: Hearing to consider an appeal of the South County Area 2 Road Improvement Fee by Mr. Frank Caron. District 4.

RECOMMENDATION

It is recommended that the Board deny the appeal to adjust or to waive the Road Improvement Fee.

DISCUSSION

Mr. Frank Caron (Appellant) has applied for a building permit, PMT2015-00615, to convert a workshop to an “as-built” single family dwelling on a residential suburban zoned parcel. The project site is located at 892 Mesa View Drive (State Route 1) in the Palo Mesa area of Arroyo Grande (see Attachment 1).

The project is situated in the South County road improvement fee Area 2 and is subject, per County Ordinance 13.01, to pay the regional road improvement fee to mitigate for cumulative traffic generated by the new development. The current road improvement fee for the *Appellant's* project, a single family residence, is \$10,048 (see Attachment 2).

Mr. Caron has filed an appeal requesting your Board adjust or waive the road improvement fee. A copy of the appeal letter is provided (see Attachment 3).

History

The permit history on the *Appellant's* property is summarized by year in the below table:

Year	Action
1975	A single family residence was constructed on the parcel, pre-South County road improvement fee program (RIF established in 1989).
2000	Appellant purchases property.
2001	Minor Use Permit D010176P was approved to convert an existing workshop to a 576 sf guest unit. Permit conditioned that no cooking, laundry, or residential occupancy was allowed.
2002	Three lot parcel map CO 02-0240 application submitted (final map recorded 11/14/2013). Original house located on Parcel 2, workshop located on Parcel 3, and Parcel 1 remains vacant, see Attachment 4.
2003	Building permit C3472, constructed garage, workshop and carport.
2003	Building permit C4979, constructed storage loft above workshop.
2003	Building permit C6639, constructed covered deck extension.
2016	Building permit PMT2015-00615 application to convert a workshop to an “as-built” single family residence.

Prior to the Appellant's land subdivision, there existed a single family residence and an accessory structure (workshop) situated on a single parcel. An approved Minor Use Permit (MUP) allowed partial conversion of the accessory structure into a guest unit, and this work was subsequently finalized by three building permits.

Road fees were not required for the above development because the residence predated the South County RIF program; and guest units are not subject to road improvement fees because they are not improved with kitchens or other amenities that provide full time occupancy.

The Appellant subsequently subdivided the single parcel into three new parcels resulting in the existing residence being situated on Parcel 2 and the guest unit on Parcel 3. The Appellant retains ownership of Parcels 2 and 3 and now has applied for PMT2015-00615, to convert the guest unit on Parcel 3 to a single family residence. This change in use, by Ordinance, requires payment of the South County Area 2 road improvement fee prior to issuance of the building permit.

Appeal Issues

In his letter, Mr. Caron raises the following appeal points, which are paraphrased below, along with staff's response:

1. Appeal Point: *I will be driving few miles because restrictions due to age, health, and income. I abandoned plans to add a third bedroom via a garage conversion [to minimize the square footage of the residence].*

Staff Response: *County road improvement fees are based upon the traffic-generating characteristics of a specific development as defined in the Institute of Transportation Engineering (ITE) Trip Generation Manual. This manual, together with our experience, has consistently shown residential structures, regardless of their square footage, will generate approximately 10 trips per day per residence with one of those trips occurring during the peak hour. The peak hour trip establishes the basis for calculating the fee.*

Although the Appellant claims to drive less than 3,500 miles per year, data shows that vehicle trips are solely based on the use of the development and not the driving habits of the inhabitants. Also, it is unclear whether the Appellant plans to live in the new residence. Regardless, it can be reasonably assumed that over time, dwelling occupancy and property ownership changes will occur. Particularly since the dwelling unit is on a separate defined parcel which may be sold off by appellant or subsequent owner.

2. Appeal Point: *The residence is accessed by a private driveway. I have spent \$175,000 on a public road and \$35,000 on a private drive.*

Staff Response: *The Appellant may be referring to costs associated with his recorded subdivision, CO 02-0240 (see Attachment 4). To ensure orderly growth, Title 21, the Real Property Division Ordinance, has specific requirements for subdivision projects to improve access, drainage, flood hazard, utilities, and storm water. Accordingly, the Appellant was conditioned to construct a private access cul-de-sac road (Via Papagallo), utility, and drainage improvements prior to final map recordation. There were no public road improvements conditioned with his subdivision. Because a bond was not required, staff has no means to substantiate the development costs provided by the Appellant.*

Staff believes his argument is irrelevant because Title 21 requirements mitigate direct project impacts, whereas the road improvement fees mitigate cumulative project impacts.

3. Appeal Point: *There appears to be no reasonable relationship between the fee and my development.*

Staff Response: *The South County Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of the improvement fee within the study area. The most recent update of the Study was a comprehensive update that was adopted by your Board on March 8, 2016, and the fees recommended in that update became effective May 8, 2016. The current fee for South County Area 2 is \$10,048 per residential pm peak hour trip.*

4. Appeal Point: *[California Government Code] 66003 shows my building permit may be exempt from the fee.*

Staff Response: *Section 66003 is not applicable because the Appellant's subdivision (development) was not conditioned to construct public improvements, either onsite or offsite, so was ineligible to enter into a Reimbursement Agreement with the County. Simply, the costs associated with the Appellant's subdivision benefited only those parcels created.*

5. Appeal Point: *[California Government Code] 66005.1 shows my building permit qualify for a lower fee.*

Staff Response: *Section 66005.1 requires the agency to adjust the fee as necessary to reflect the lowest rate of automobile trip generation based on the following characteristics:*

- *If located within ½ mile to transit – NOT APPLICABLE, no transit*
- *If located within ½ mile to convenience retail (food) – NOT APPLICABLE, 3,600 feet*
- *If restricted parking – NOT APPLICABLE, residential suburban land use*

South County Road Improvement Fee Area Appeal History

Since 1991, there have been 38 road improvement fee appeals within the South County Road Fee Areas 1 and 2. The following summarizes your Board's actions on each of these appeals:

Category	No. of Appeals	Board Action			RIF Losses
		Adjusted	Waived	Denied	
Residential	30	6	1	23	\$84,582
Industrial	1	1	-	-	7,162
Commercial	4	3	1	-	99,998
Church	3	1	1	1	22,591
Total	38	11	3	24	\$214,333

Basis for Adjustment or Waiver of the Fee

Section 13.01.050 of the San Luis Obispo County Code states that an adjustment or waiver of the fee may be granted, "based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development, and either the amount of the fee imposed or the type of road facilities or improvements to be financed by the fee."

The South County Circulation Study establishes the reasonable relationship, or nexus, required for the imposition of the improvement fee within the study area. The most recent update of the Study was a comprehensive update that was adopted by your Board on March 8, 2016, and the fees recommended in that update became effective May 8, 2016. The current fee for South County Area 2 is \$10,048 per residential pm peak hour trip.

All new developments or changes in use of existing development within the area will contribute to the need for road and other transportation improvements, the study recommends. The improvement program is designed to provide the necessary capacity, in the network of arterial and collector streets, to meet the County's established level of service criteria. The road improvement fee was adopted by your Board to apportion the cost of the needed improvements to all development, based on the amount of traffic generated.

The adopted study prioritizes the following Area 2 transportation improvement projects:

1. Los Berros Road widening from Avis Street to US 101
2. Dual Roundabouts at Highway 1 (Cienega Road) and Halcyon Road
3. Los Berros Road widening from Valley Road to El Campo Road
4. Los Berros Road widening from El Campo Road to Avis Street
5. Roundabout at Highway 1 and Valley Road

Vehicle trips generated by the proposed development can be expected to traverse these priority project sites.

OTHER AGENCY INVOLVEMENT/IMPACT

The Building Permit is being processed by the Department of Planning and Building.

FINANCIAL CONSIDERATIONS

The South County Circulation Study establishes a capital improvement program that identifies transportation projects necessary to support new development. Supporting this appeal would result in loss of revenues that would impact future South County Area 2 projects as identified herein; the gap in funding will need to be provided through other sources such as County General Fund. Supporting this appeal may also set a precedent that could result in substantial loss of road improvement fee revenue in the future.

A fee of \$529 was paid by the applicant to process this appeal request. This fee is applied to offset time spent by staff to prepare this report and present this appeal to the Board of Supervisors at public hearing.

RESULTS

The results of considering this appeal will include your determination on how the road improvement fees are allocated to new development, which will promote a well-governed community.

ATTACHMENTS

1. Vicinity Map
2. South County Road Improvement Fee Area
3. Appellant's Letter
4. Subdivision Tentative Map

c: Mr. Frank Caron, 892 Mesa View Dr., Arroyo Grande, CA 93420

Reference: 16AUG16-H-1

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